

Introduced by Senator Maldonado

February 22, 2005

An act to amend Sections 38131 and 38134 of the Education Code, relating to school facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 711, as amended, Maldonado. School facilities: *usage fees*.

Existing law ~~defines terms relating to schoolsites and school facilities~~, the Civic Center Act, authorizes the governing board of a school district to grant the use of school facilities or grounds as a civic center for specified purposes, including, among others, the conduct of religious services by any church or religious organization. Existing law requires a governing board to charge a fee, as specified, for the use of its school facilities for the conduct of religious services by a church or religious organization. Existing law allows a school district to charge a fee, as specified, for the use of its school facilities for all of the other specified purposes.

This bill would ~~declare that it is the intent of the Legislature to enact legislation amending those provisions~~ delete the requirement that a fee be charged to a church or religious organization for the use of the facilities or grounds to conduct religious services.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. It is the intent of the Legislature to enact~~
- 2 ~~legislation amending Section 17210 of the Education Code.~~

1 SECTION 1. Section 38131 of the Education Code is
2 amended to read:

3 38131. (a) There is a civic center at each and every public
4 school facility and grounds within the state where the citizens,
5 parent-teachers' associations, Camp Fire girls, Boy Scout troops,
6 farmers' organizations, school-community advisory councils,
7 senior citizens' organizations, clubs, and associations formed for
8 recreational, educational, political, economic, artistic, or moral
9 activities of the public school districts may engage in supervised
10 recreational activities, and where they may meet and discuss,
11 from time to time, as they may desire, any subjects and questions
12 which in their judgment pertain to the educational, political,
13 economic, artistic, and moral interests of the citizens of the
14 communities in which they reside.

15 (b) The governing board of any school district may grant the
16 use of school facilities or grounds as a civic center upon the
17 terms and conditions the board deems proper, subject to the
18 limitations, requirements, and restrictions set forth in this article,
19 for any of the following purposes:

20 (1) Public, literary, scientific, recreational, educational, or
21 public agency meetings.

22 (2) The discussion of matters of general or public interest.

23 (3) The conduct of religious services for temporary periods, on
24 a one-time or renewable basis, by any church or religious
25 organization that has no suitable meeting place for the conduct of
26 the services, ~~provided the governing board charges the church or~~
27 ~~religious organization using the school facilities or grounds a fee~~
28 ~~as specified in subdivision (d) of Section 38134.~~

29 (4) Child care or day care programs to provide supervision and
30 activities for children of preschool and elementary schoolage.

31 (5) The administration of examinations for the selection of
32 personnel or the instruction of precinct board members by public
33 agencies.

34 (6) Supervised recreational activities including, but not limited
35 to, sports league activities for youths that are arranged for and
36 supervised by entities, ~~including religious organizations or~~
37 ~~churches, and in which if the youths may participate regardless of~~
38 religious belief or denomination.

39 (7) A community youth center.

(8) Other purposes deemed appropriate by the governing board.

SEC. 2. Section 38134 of the Education Code is amended to read:

38134. (a) The governing board of any school district shall authorize the use of any school facilities or grounds under its control, ~~when~~ *if* an alternative location is not available, to nonprofit organizations, and clubs or associations organized to promote youth and school activities, including, but not limited to:

(1) Girl Scouts, Boy Scouts, *and* Camp Fire, Inc.

(2) Parent-teachers' associations.

(3) School-community advisory councils.

This subdivision shall not apply to any group that uses school facilities or grounds for fundraising activities that are not beneficial to youth or public school activities of the district, as determined by the governing board.

(b) Except as otherwise provided by law, the governing board may charge an amount not to exceed its direct costs for use of its school facilities. Each governing board that decides to levy these charges shall first adopt a policy specifying which activities shall be charged an amount not to exceed direct costs.

(c) The governing board of any school district may charge an amount not to exceed its direct costs for use of its school facilities by any entity, ~~including a religious organization or church,~~ that arranges for and supervises sports league activities for youths as described in paragraph (6) of subdivision (b) of Section 38131.

~~(d) The governing board of any school district that authorizes the use of school facilities or grounds for the purpose specified in paragraph (3) of subdivision (b) of Section 38131 shall charge the church or religious denomination an amount at least equal to the district's direct costs.~~

~~(e)~~ In the case of entertainments or meetings where admission fees are charged or contributions are solicited and the net receipts are not expended for the welfare of the pupils of the district or for charitable purposes, a charge shall be levied for the use of school facilities or grounds which charge shall be equal to fair rental value.

~~(f)~~

1 (e) If any group activity results in the destruction of school
2 property, the group may be charged for an amount necessary to
3 repay the damages, and further use of facilities may be denied.

4 ~~(g)~~

5 (f) As used in this section, “direct costs” to the district for the
6 use of school facilities or grounds means those costs of supplies,
7 utilities, janitorial services, services of any other district
8 employees, and salaries paid school district employees
9 necessitated by the ~~organization’s~~ *by the entity* use of the school
10 facilities and grounds of the district.

11 ~~(h)~~

12 (g) As used in this section, “fair rental value” means the direct
13 costs to the district, plus the amortized costs of the school
14 facilities or grounds used for the duration of the activity
15 authorized.

16 ~~(i)~~

17 (h) Any school district authorizing the use of school facilities
18 or grounds under subdivision (a) ~~shall be~~ *is* liable for any injuries
19 resulting from the negligence of the district in the ownership and
20 maintenance of those facilities or grounds. Any ~~group~~ *entity*
21 using school facilities or grounds under subdivision (a) ~~shall be~~ *is*
22 liable for any injuries resulting from the negligence of that ~~group~~
23 *entity* during the use of those facilities or grounds. The district
24 and the ~~group~~ *entity* shall each bear the cost of insuring against
25 its respective risks and shall each bear the costs of defending
26 itself against claims arising from those risks. Notwithstanding
27 any other provision of law, this subdivision shall not be waived.
28 ~~Nothing in this~~ *This* subdivision ~~shall be construed to~~ *does not*
29 limit or affect the immunity or liability of a school district under
30 Division 3.6 (commencing with Section 810) of Title 1 of the
31 Government Code, for injuries caused by a dangerous condition
32 of public property.

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